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*Christmas waves a magic wand over this world,
and behold, everything is softer and more beautiful.*

--Norman Vincent Peale

***Happy Holidays from the
South Dakota Real Estate Commission***

A Letter From the Chairman



Happy Holidays to One and All. As the old year is wrapping up and the new is upon us I'd like to thank all of you who made the commission's life easier (although I probably should be

thanking those who keep our job secure). I hope that everyone has his/her renewal in for licensure and has completed the required continuing education so we can hit the ground running to make 2006 a happy and successful year.

In my last article to you, I said good bye to an old friend and mentor Loren Anderson. Now I have the privilege of welcoming his replacement - Paula Lewis of Rapid City. Paula is an active broker and land developer from Re/Max; she'll make a great addition to the commission. Welcome Paula Lewis!

One of the organizations that I refer to occasionally is international in nature and dedicated to the uniformity among real estate commissions internationally. If you are curious about that organization, ARELLO, you can go to my website: www.watertownsdhomes.com and you'll find the link to its home page. Browse the ARELLO site and you'll see how important this organization is to the industry and South Dakota. Many of the ideas that make South Dakota a leader in license law come from South Dakota's association with ARELLO. Single licensure and errors and omissions insurance are two prime examples.

As the year closes, I would like to personally wish each and every licensee **Merry Christmas and a Happy and Prosperous New Year.**

Until next issue,
Charlie



From the Director's Desk



Season's Greetings! I guess I don't have to tell anyone that there will be a white Christmas this year. The pioneer spirit inherent in us South Dakotans certainly prevailed during and after the recent

devastating blizzard. Hopefully, by the time you receive this newsletter, power will be restored to all areas of the state and everyone is back to a normal routine.

Hopefully, all of you whose licenses were due for renewal have done so. If you are active and don't have a valid license displayed on January first, you cannot be practicing. This holds true for those of you lacking the required continuing education as well. If you renewed your license but failed to complete your continuing education, your license will be placed on inactive status until the education is completed. Office staff will be contacting the responsible brokers to send in the licenses of any licensee who does not qualify to practice. Keep in mind, if a firm license is not renewed, the licensees associated with that firm cannot engage in any real estate activities.

Also keep in mind, if your errors and omissions insurance expires on December 31st and you haven't renewed your errors and omissions insurance, or provided the Commission a certificate of coverage, you cannot be on active status effective January 1st. I suggest to those of you who are responsible brokers that this would be a good time to make sure all the licensees in your office will be able to remain active on January 1st.

Please acquaint yourself with Paula Lewis by reading her biography appearing in this newsletter. Paula was recently appointed to the Commission by Governor Rounds to fill the seat vacated by Loren Anderson. Paula, I personally want to welcome you to the Commission and am looking forward to working with you.

Auditor Tim Buseman and I have been developing a trust account course for responsible brokers, property managers and bookkeeping staff. We hope to have this ready to present around the state early next spring. Please contact either Tim or me if

you have any trust account or auditing issues that you would like us to address.

I'd like to close with a quote from another South Dakotan who braved many hard winters on the prairie. Laura Ingalls Wilder wrote, "Our hearts grow tender with childhood memories and love of kindred, and we are better throughout the year for becoming, in spirit, a child again at Christmastime time." I wish you all a happy holiday season & hope you carry the holiday spirit with you every day of the New Year.

DjN

Disciplinary Action

Brandt C. Williams, Sioux Falls, Broker. Stipulation and Assurance of Voluntary Compliance. Completion of 6 hours of continuing education in the area of contracts within one year. Pay costs of \$170.00. Violation of SDCL 36-21A-130.

Continuing Education Credit for Real Estate/Appraiser Licensees

If you hold licenses for both a real estate broker/broker associate and an appraiser, pay extra attention to the continuing education courses you take. The Appraiser Certification Program and the SD Real Estate Commission are two separate offices and continuing education providers must apply to each office if they are seeking both appraisal and real estate continuing education credit. Not all providers are applying to both offices for approval, so licensees shouldn't assume that the course is approved in both places.

If you are unsure of whether a course is approved for both appraisal and real estate credit, contact the SD Real Estate Commission at (605) 773-3600 and the Appraiser Certification Program at (605) 773-4608.



Governor Rounds Appoints Paula Lewis

Governor Rounds has appointed Paula Lewis of Rapid City to the South Dakota Real Estate Commission. She will be filling the seat vacated by Loren Anderson who stepped down from the commission.

Paula has been an active real estate broker for over 35 years and is currently an owner of RE/MAX of Rapid City. She has served on several local, state and national committees including Finance and Commercial Development. In 1989, she was named REALTOR of the year and is a past-president of the SD Association of REALTORS.

As a member of the Black Hills Homebuilders Association, she has served in various leadership positions including President in 1999 and 2003 and is the current National Director. Paula has been involved in education and advocacy as an instructor for homebuyer education classes and as a presidential appointment to Smart Growth and FHA Task Forces.

Living in the Black Hills has given Paula the opportunity to own and operate several small businesses, many in the tourism industry, as well as partnering in various land development and new construction corporations. Paula is the mother of 3 married sons and has 4 grandchildren.

We welcome Paula to the Commission and look forward to working with her.

Don't Let Your E&O be MIA!

If you are an active licensee and have not renewed your Errors & Omissions Insurance for 2006, your license will be placed on inactive status on January 1st. Renewal forms were sent out in October. If you have questions or need an enrollment form, contact the SDREC office at (605) 773-3600.

Correct Commission Office Address

The SDREC office is still receiving mail addressed to our old mailing address. Please make sure that you use our correct address when submitting any correspondence to our office. Failure to do so may delay the items from reaching our office in a timely manner.

The correct office address is: 221 W. Capitol Ave., Suite 101, Pierre, SD 57501.

New Licensees

The South Dakota Real Estate Commission would like to welcome the following new licensees.

Broker

Otis, Stephen R – Omaha, NE
Von Svoboda, Jason – Ord, NE

Broker Associate

Adams-Frasier, Dorothy A – Rapid City
Brannan, Sandra – Rapid City
Floberg, Jr., Leonard P – Huron
Gioia, Lori A – Rapid City
Harle, Paula – Sioux Falls
Klatt, Sandra – Sioux Falls
Larson, Steven – Rapid City
Lindgren, Jodine L – Nemo
Meiners, Roberta L – Marcus
Newman, Jerry L – Rapid City
Norwick, Brandon C – Sioux Falls
Pich, Helen L – Sturgis
Roggow, Ralph R – Howard
Sandness, Tanya L – Sioux Falls
Thompson, Carmen C – Rapid City
Thoreson, Kathryn A – Sioux Falls

Property Manager

Maag, Anne – Watertown
Riss, Denise – Rapid City

Salesperson

Arndorfer, Jodi K – Hettinger, ND
Duemeland, Stenberg, Jill – Mandan, ND
Helland, Colleen A – Shawnee, KS
Nashleanas, Todd A – Sioux City, IA
Nester, Lowell A – Reeder, ND
Vos, Mark L – Kingsley, IA
Wiersma, Ruth R – Inwood, IA

South Dakota Real Estate VIEW

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Paula Lewis, Member Rapid City
Dee Jones Noordermeer,
Executive Director Pierre
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Education Director. Pierre
Norma Schilling, Licensing..... Pierre
Vacant, Auditor Pierre
Tim Buseman, Auditor Sioux Falls

Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

Latest Court Decisions

The following case reports are from the Association of Real Estate License Law Officials (ARELLO) 2005 Annual Case Law Report

Brokerage Practice

Liability for Misplaced Signs

Gordon v. Century 21, 888 So. 2d385 (La. Ct. App. 2004)

Louisiana Court of Appeals

Facts: Gordon owned lots 51 and 52, two unimproved lots, in a subdivision. Another owner listed his two lots, lots 54 and 55, for sale with Century 21. The listing agent accidentally placed the “for sale” sign on Gordon’s lots. Buyers purchased lots 54 and 55, believing they had purchased Gordon’s lots because of the location of the sign. After closing, the buyers hired someone to clear the two lots and remove a number of trees. Gordon later discovered his lots had been mistakenly cleared by the buyers. The Century 21 sign was still located on Gordon’s lots. Gordon sued Century 21, the owner/broker, and the estate of the listing agent, who was then deceased (his estate was later released from the suit). At the close of Gordon’s evidence, the trial court granted a directed verdict for Century 21 and the owner/broker, finding no privity of contract between Gordon and Century 21 or the owner/broker. Gordon appealed.

Issue: Whether Gordon had a viable cause of action against Century 21 and the owner/broker.

Held: Reversed and remanded. It was undisputed that the listing agent, while working for Century 21 and the owner/broker, placed the “for sale” sign on Gordon’s lots. But for his negligence, Gordon’s lots would not have been damaged. The court further held that if the listing agent was an employee of Century 21 and not an independent contractor, the firm and its owner/broker would be liable for his negligence.

Antitrust

Tying Arrangement

Franich v. The Real Estate Commission of Iowa, 681 N.W.2d (2004)
Supreme Court of Iowa

Facts: Franich was a licensed real estate broker and the owner of Symmetry Mortgage Corporation (“Symmetry”), a licensed real estate firm. Symmetry operated as a mortgage broker and a real estate broker. Franich instituted a marketing plan in which Symmetry offered interest rates below market rates to home buyers using Symmetry Real Estate. Symmetry was able to tender this discount by forgoing its mortgage broker commission. Buyers could obtain mortgage financing through Symmetry without using Franich for the underlying real estate transaction, but such buyers had to pay market interest rates. This strategy was advantageous to Franich because his real estate broker’s commission was much higher than the commission he earned as a mortgage broker. In April 2001, the Real Estate Commission received a complaint from another agent alleging that Franich, while acting as a mortgage broker for Symmetry, offered a lower rate to a potential borrower, M.B., if M.B. would change realty companies and hire Symmetry Real Estate as his real estate agent. At a hearing before the Commission, Franich admitted to discussing the possibility of lower interest rates with M.B. if M.B. switched to Symmetry Real Estate, but contended he told the buyer the option existed only if the property purchased was in Illinois. After the hearing, the Commission decided that it could not conclude whether Franich offered M.B. the reduced rate for a property in Iowa. However, the Commission concluded such an offer was made to Iowa residents via Franich’s website and held that this offer violated Iowa Code defining “prohibited practices” that are deemed unethical or unhelpful or detrimental to the public. The Commission imposed a permanent prohibition of the “tying arrangement”. This decision was affirmed by the district court and Franich appealed.

Issue: Whether the finding by the Commission that the marketing plan by Franich was a “prohibited practice” is an irrational, illogical, or wholly unjustifiable interpretation of the statute defining “prohibited practice”.

Held: Affirmed. The court held that the Commission’s findings that Franich’s marketing plan was a “prohibited practice” was wholly unjustifiable under

section of the statute that Commission used. This rule prohibits an arrangement in which a mortgage broker conditions making a loan upon payment of a real estate commission to a real estate licensee. Under Franich’s plan, Symmetry would make a loan to a qualifying borrower regardless of whether the borrower used Symmetry as his real estate broker. However, a separate section in the same statute prohibits arrangements in which a real estate licensee who is affiliated with a mortgage broker benefits from the practice of granting mortgage loans. Since this is what takes place under this marketing plan, the court upheld the decision based on that provision.

HUD Settles Case Against Four Detroit Real Estate Brokers Over Violations of Anti-kickback Rules

Agreements follow earlier settlement against Metropolitan Title Company

WASHINGTON - The Department of Housing and Urban Development today announced separate settlement agreements totaling \$80,000 with four Detroit area real estate brokers for violations of the *Real Estate Settlement Procedures Act (RESPA)*. The settlements announced today follow a related agreement this summer with Metropolitan Title Company which HUD determined paid these real estate brokers for the use of conference rooms at rates substantially higher than their fair market value.

HUD reached agreements with the following real estate brokers in the Detroit area: RE/MAX Masters; RE/MAX in the Hills (Michigan); Hometown One Associates (doing business as Remerica Hometown One); and, Schweitzer Real Estate, Inc. (doing business as Coldwell Banker Schweitzer Real Estate). In each case, HUD determined that these brokers received conference room rental fees from Metropolitan in excess of the general market rate for comparable room rentals.

While charging or paying room rental fees does not necessarily violate RESPA,

the excessive charges and payments made in these circumstances were designed to disguise referral fees that violate the anti-kickback provisions of law. Section 8 of RESPA prohibits a person from giving or accepting anything of value in exchange for the referral of settlement service business.

"Whether you give or whether you receive a thing of value in exchange for the referral of business, it's against the law," said Brian Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner. "RESPA speaks to both sides of this equation and HUD, for its part, will vigorously enforce the law when it comes to controlling kickbacks, whether you pay or whether you're paid." Last July, HUD reached a settlement with Metropolitan Title Company for paying excessive hourly rates to lease conference rooms from real estate brokers. HUD

investigators researched the general market value of conference facilities in the Detroit area and found the average hourly rental of comparable rental space was much lower than what Metropolitan paid to these brokers. Following the investigation of Metropolitan, HUD then pursued real estate brokers who benefited from these payments.

The four real estate brokers agreed to make the following payments to the U.S. Treasury as a result of the settlements announced today:

RE/MAX Masters - \$8,000
RE/MAX in the Hills (MI) - \$12,000
Remerica Hometown One - \$15,000
Coldwell Banker Schweitzer - \$45,000
Total \$80,000

To read the settlement agreements announced today, visit HUD's website.

HUD is the nation's housing agency committed to increasing homeownership,

particularly among minorities; creating affordable housing opportunities for low-income Americans; and supporting the homeless, elderly, people with disabilities and people living with AIDS. The Department also promotes economic and community development as well as enforces the nation's fair housing laws. More information about HUD and its programs is available on the Internet at www.hud.gov and espanol.hud.gov.



In Memoriam

The SD Real Estate Commission extends its sincerest sympathy to the families and friends of the following licensee who recently passed away:

Jerald Leesch, Sioux Falls

APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Revenue and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program. Appraiser certification inquiries can be directed to Sherry Bren, Program Administrator, 445 East Capitol, Pierre, SD 57501, 605-773-4608

Appraiser Certification Program Mission – Purpose – Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress. The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the

activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. www.state.sd.us/appraisers

USPAP Q & A

Vol. 7, No. 11, November 2005
Changes in the 2006 Edition of USPAP

The 2006 USPAP will be published in late January 2006 and become effective July 1, 2006. Appraisers, regulators and users of appraisals have begun asking about the changes. This month's questions are in response to these inquiries.

Question # 1: What are the major changes in the 2006 USPAP?

Question # 2: Should appraisers start using the 2006 USPAP in January 2006?

Question # 3: Does the SCOPE OF WORK RULE introduce any new reporting requirements to USPAP?

Question # 4: Am I required to have a separate section in my reports describing my scope of work?

Question # 5: Have the reporting labels been deleted from USPAP starting with the 2006 edition?

Answers to the above questions can be found at:

www.appraisalfoundation.org

Member to Serve Second Term on the Advisory Council

Gary R. Viken, Secretary of the Department of Revenue and Regulation, has appointed Daryl Washechek, a State-Certified General Appraiser, of Rapid City to serve another four (4) year term on the Appraiser Certification Program Advisory Council. The Department appreciates Daryl's service on the Council and welcomes him for a second term.

New Licensees – October/November

Faith A. Goodine, State-Registered –
Sturgis

Roger D. Halverson, State-Certified
General – Oakdale, CA

Layne R. Mostad, State-Registered –
Bruce

Allan E. Bredice, State-Certified
Residential – Rocky Hill, CT

Shane G. Simon, State-Registered –
Rapid City

Neil K. Schwartz, State-Certified
Residential – Woodbury, MN

Christopher R. Kapler – State-
Certified General – West Des Moines, IA

Dani M. Glasford, State-Registered –
Rapid City

Pamela J. Williams, State-Registered
– Watertown

Maintaining an Education File

The Department recommends that each registered, licensed or certified appraiser maintain an "education" file for attendance verification documents for appraisal courses taken to renew the appraiser certificate. It is much easier to maintain an "education" file than to be scrambling at the end of the reporting period for the documents required

Continuing Education Credit for Appraiser/Real Estate Licensees

If you hold licenses as both an appraiser and a real estate broker/broker associate, pay extra attention to the continuing education courses you take. The Appraiser Certification Program and the SD Real Estate Commission are two separate offices and continuing education providers must apply to each office if they are seeking both appraisal and real estate continuing education credit. Not all providers are applying to both offices for approval, so licensees shouldn't assume that the course is approved in both places.

If you are unsure of whether a course is approved for both appraisal and real estate credit, contact the Appraiser Certification Program at (605) 773-4608 and the SDREC office at (605) 773-3600.

to renew. 28 classroom hours of approved appraiser continuing education verification will be required to renew in the 2007 renewal period. Seven (7) of those hours must be completion of the 7-hour National USPAP Update course. Plan ahead to attend courses to satisfy the renewal requirements and keep the course verification documents in your "education" file.

Contents of the Workfile – Uniform Standards of Professional Appraisal Practice, ETHICS RULE, Record Keeping Section

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The workfile must include:

- The name of the client and the identity, by name or type, of any other intended users;
- True copies of any written reports, documented on any type of media;
- Summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and
- All other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.

An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.

Comment: A workfile preserves evidence of the appraiser's consideration of all applicable data and statements required by USPAP and other information as may be required to support the appraiser's opinions, conclusions, and recommendations. For example, the content of a workfile for a Complete Appraisal must reflect consideration of all USPAP requirements applicable to the specific Complete Appraisal assignment. However, the content of a workfile for a Limited Appraisal need only reflect consideration of the USPAP requirements from which there have been no departure and that are required by the specific Limited Appraisal assignment.

A photocopy or an electronic copy of the entire actual written appraisal, appraisal review, or appraisal consulting report sent or delivered to a client satisfies the requirement of a true copy. As an example, a photocopy or electronic copy of the Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report actually issued by an appraiser for a real property appraisal assignment satisfies the true copy requirement for that assignment.

Care should be exercised in the selection of the form, style, and type of medium for written records, which may be handwritten and informal, to ensure that they are retrievable by the appraiser throughout the prescribed record retention period.

A workfile must be in existence prior to and contemporaneous with the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.

A workfile must be made available by the appraiser when required by state enforcement agencies or due process of law. In addition, a workfile in support of a Restricted Use Appraisal Report must be sufficient for the appraiser to produce a Summary Appraisal Report (for assignments under STANDARDS 2 AND 8) or an Appraisal Report (for assignments under STANDARD 10), and must be available for inspection by the client in accordance with the Comment to Standards Rules 2-2(c)(ix), 8-2(c)(ix), and 10-2(b)(ix).

Review of Cases as of November 16, 2005

For the period January 1, 2005 through November 16, 2005 there have been 8 upgrade applications, 1 new application claiming experience, and 9 complaints submitted to the Department.

Upgrades – 5 upgrades issued; one agreed disposition; 2 pending

New Application – 1 Pending

Complaints – 4 dismissed with no action; 5 pending

Frequently Asked Questions on the Appraisal Regulations and the Interagency Statement on Independent Appraisal Evaluation Functions

March 22, 2005

The Office of the Comptroller of the Currency, the Board of Governors of the

Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the National Credit Union Administration (the agencies) prepared this document in response to questions from federally regulated institutions (regulated institutions) on existing standards for selecting appraisers, ordering appraisals, accepting transferred appraisals, and other related topics. It should be reviewed in conjunction with the agencies' appraisal regulations, the "Interagency Appraisal and Evaluation Guidelines" (interagency guidelines), dated October 7, 1994, and the joint statement "Independent Appraisal and Evaluation Functions" (independence statement), dated October 28, 2003.

Selecting an Appraiser and Ordering an Appraisal

1. Do the interagency guidelines and independence statement apply for ordering and reviewing appraisals if the collateral property is residential (mortgage or home equity) rather than commercial?

Answer: The agencies' guidance applies to both commercial and residential transactions. While the guidance does not differentiate between commercial and residential transactions, a regulated institution's appraisal policy and practices may differ for certain transactions. The regulated institution needs to consider the type of transaction when ordering appraisals, selecting appraisers, and reviewing appraisals. The transaction type should influence the type of appraisal that the regulated institution orders and whether the appraisal is eligible for a compliance review or should receive a comprehensive, analytical review prior to the credit decision. Moreover, for all lending activity, a regulated institution should ensure that independence is maintained when selecting appraisers, ordering appraisals, and reviewing appraisals.

2. A regulated institution plans to make a construction loan to a tract developer to build 10 homes. Is it permissible for the developer to order appraisals on the properties and use them to support the construction loan request? Could the developer select an appraiser from the lender's approved appraiser list and in turn submit the appraiser's name to potential permanent lenders?

Answer: No, the regulated institution may not accept a borrower-ordered

appraisal and may not allow the borrower to select an appraiser from its approved appraiser list.

3. Who should be considered the loan production staff for purposes of achieving appraiser independence? Could loan production staff select an appraiser?

Answer: The loan production staff consists of those responsible for generating loan volume or approving loans, as well as their subordinates. This would include any employee whose compensation is based on loan volume. Employees responsible for the credit administration function or credit risk management are not considered loan production staff.

Loan production staff should not select appraisers. However, in a small or rural institution or branch, the only individual qualified to analyze the real estate collateral may also be a loan officer, other officer, or director of the institution. To ensure their independence, such lending officials, officers, and directors should abstain from any vote or approval involving loans for which they engaged the appraiser, reviewed the appraisal, or performed an evaluation.

4. What information should the regulated institution provide to the appraiser upon engagement?

Answer: The regulated institution should provide the property's address, its description, and any other relevant information. The regulated institution may also provide a copy of the sales contract for purchase transactions. However, the information provided by the regulated institution should not unduly influence the appraiser or in any way suggest the property's value. The regulated institution and the appraiser should agree on the scope of the appraisal in advance, consistent with the Uniform Standards of Professional Appraisal Practice (USPAP) and the agencies' appraisal regulations and interagency guidelines.

5. When selecting residential appraisers, may loan production staff use a revolving pre-approved appraiser list, provided the list is not under their control?

Answer: Yes, loan production staff may use a revolving, board-approved list to select a residential appraiser, provided the development and maintenance of the list is not under their control. Staff responsible for the development and maintenance of the list should be independent of the loan production process. In developing the list, a

regulated institution should consider the knowledge and expertise of the selected appraiser for a given assignment. For example, the list should indicate the qualifications of the appraiser to perform appraisals in particular markets and on various types of residential property transactions. If the next available name on the list is not selected, the departure should be properly documented in the credit file. The administrative procedures should include a process for qualifying an appraiser for initial placement on the list as well as for periodic monitoring of the appraiser's performance to assess whether to retain an appraiser on the list. Further, there should be periodic internal review of the appraiser selection process to ensure that appropriate procedures are being followed and that controls exist to ensure independence.

6. Must the individual appraiser, rather than the appraisal firm, sign and accept the terms of an engagement letter for it to be considered valid?

Answer: The agencies have no specific requirements with respect to who signs and accepts the engagement letter. The appraiser, however, must sign the certification page of the appraisal report.

7. Are appraisers required to disclose whether they have been engaged to appraise a given property in the past or is this information confidential?

Answer: The agencies' appraisal regulations do not require that the regulated institution obtain information from appraisers as to whether they have previously appraised a given property. However, the regulations do require when engaging a fee appraiser that the regulated institution ensure that the appraiser has no direct or indirect interest, financial or

otherwise, in the property or the transaction. The regulated institution should ask relevant questions of an appraiser to ensure that the appraiser is independent of the transaction and capable of rendering an unbiased opinion.

8. When ordering appraisals, can a staff appraiser or an appraisal company affiliated with the regulated institution be considered independent since the regulated institution compensates them?

Answer: Yes, if a staff appraiser prepares an appraisal, that appraiser must be independent of the lending, investment, and collections functions and not involved in the approval of the transaction. When fee appraisers from an affiliated appraisal company prepare appraisals, similar independence standards apply.

[FDIC FIL-20-2005: Frequently Asked Questions. See <http://www.fdic.gov/news/news/financial/2005/fil2005a.html>